

# United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Milton I. Shadur	Sitting Judge if Other than Assigned Judge	
<b>CASE NUMBER</b>	01 C 6549	<b>DATE</b>	8/29/2001
<b>CASE TITLE</b>	In Re: Michael S. Lancellotti		

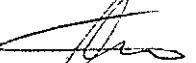
[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

**MOTION:**

--

**DOCKET ENTRY:**

- (1)  Filed motion of [ use listing in "Motion" box above.]
- (2)  Brief in support of motion due \_\_\_\_\_.
- (3)  Answer brief to motion due \_\_\_\_\_. Reply to answer brief due\_\_\_\_\_.
- (4)  Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5)  Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (6)  Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (7)  Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8)  [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9)  This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
  FRCP4(m)    General Rule 21    FRCP41(a)(1)    FRCP41(a)(2).
- (10)  [Other docket entry] Enter Memorandum Opinion and Order. Because the Clerk's Office has chosen to treat Lancellotti's non-qualifying-complaint by assigned a case number to the matter, this Court will simply dismiss it without prejudice. This means that Lancellotti will not be barred by any preclusive principles if and when he may (1) get his act together, (2) frame an appropriate pleading against an indentified defendant or defendants and (3) seek to return to court.
  
- (11)  [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input checked="" type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	<b>SN</b> courtroom deputy's initials	<b>EUT</b> <b>FILED FOR DOCKETING</b> <b>01 AUG 30 PM 4:53</b> Date/time received in central Clerk's Office	number of notices <b>AUG 31 2001</b> date docketed  docketing deputy initials <b>8/30/2001</b> date mailed notice <b>SN</b> mailing deputy initials
---	--	--	--

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In re

)

MICHAEL S. LANCELLOTTI  
#07146-097

) No. 01 C 6549  
)

DOCKETED  
AUG 31 2001

MEMORANDUM OPINION AND ORDER

Michael Lancellotti ("Lancellotti") has tendered a 15-page handwritten narrative in which he sets out in considerable detail a large number of grievances of various types in connection with the treatment he is now receiving as a prisoner at Federal Correctional Institution, Oxford, Wisconsin. Although Lancellotti has not framed that document as a complaint--for example, it includes no caption to identify his target defendants, and it does not specify what type or types of relief he seeks (other than asking at the outset for a "Court Order of Injunction" to prevent his being transferred to another institution until "these issues petitioner shall represent are fully adjudicated")--he has captioned the document this way:

Motion for Relief under §2241 Conditions of Confinement.

Thus the Clerk's Office has understandably affixed a case number to the papers, and the matter has been assigned at random to this Court's calendar.

Lancellotti's label is wrong: This is not a habeas case, for Lancellotti is admittedly (and expressly, see his page 1) aware that his grievances relate to various conditions (and not

4

to the fact) of his confinement. That being so, and with Lancellotti being a federal prisoner, this Court's potential jurisdiction is really limited to the federal equivalent of the type of claim that may be advanced by state prisoners under 42 U.S.C. §1983--that is, a claim cognizable under the principles exemplified by Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971) and its numerous progeny. And with Lancellotti's claims thus being required to be addressed (if at all) as a civil action, the less-than-formal nature of his submission also includes his not having tendered either (1) the \$150 filing fee or (2) the materials required by 28 U.S.C. §1915 to be furnished by any prisoner seeking to proceed in forma pauperis.

That last omission, however, is the product of Lancellotti's misperception that 28 U.S.C. §2241 (the general habeas corpus statute) is his potential source of relief (see the attached photocopy of his forwarding letter to the Clerk of this District Court). This Court is loath to see him waste a filing fee by chasing down that blind alley, particularly when he has not satisfied the statutory precondition to any prisoner's action regarding prison conditions: the exhaustion of "such administrative remedies as are available" (42 U.S.C. §1997e(a)). Although Lancellotti does speak of undertaking some pursuit of such remedies, and he indicates his belief that further efforts are likely to be futile, that does not suffice under established

law (see, e.g., Perez v. Wisconsin Dep't of Corrections, 182 F.3d 532, 537 (7<sup>th</sup> Cir. 1999) and Booth v. Churner, 121 S.Ct. 1819, 1825 n.6 (2001)).

Because the Clerk's Office has chosen to treat Lancellotti's non-qualifying-complaint by assigning a case number to the matter, this Court will simply dismiss it without prejudice. This means that Lancellotti will not be barred by any preclusive principles if and when he may (1) get his act together, (2) frame an appropriate pleading against an identified defendant or defendants and (3) seek to return to court.



---

Milton I. Shadur  
Senior United States District Judge

Date: August 29, 2001

FILED

DOCKETED

AUG 24 2001

AUG 22 2001

Lancellotti Michael J.  
07146-027 F.C.L.  
P.O. Box 1000  
Offord, Wi. 53952

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

01C06549

JUDGE SHADOUR

MAGISTRATE JUDGE ROSEMOND

Clerk of The Court.

LETTER from plaintiff dated 8/12/01.

Dear Sir/Ms. Clerk,

I have requested copies of the 2241 forms from the law library here as well as other legal supplies to no avail. I am being slow played by the institution.

I apologize if my handwritten application is troublesome to you. However I felt it necessary to get the issues into the mail before more happened.

Thank you for your patience.

Sincerely,  
Michael J. Lancellotti  
8/12/01

I will be authorizing the institution to pay the fee when you notify them of the need.

Thanks.

3